

In The United States District Court
For The Western District of Pennsylvania

Ryan Herwin

: case # 05 - 93 ERIE

:

vs.

: Magistrate Judge Susan Baxter

:

Ex. William McConnell

: District Judge Sean McLaughlin

Affidavit and
Motion For Entry of Default

Plaintiff Herby declares:

1. The above complaint was filed in this court on March 22, 2005
2. The court files and record herein show that the defendant was served by the United States Marshall with a copy of summons and a copy of plaintiffs complaint on April 21, 2005. (Exhibit A; docket entry # 11)
3. The defendant was required to file an answer or responsive pleading by June, 20, 2005. (Exhibit A; docket entry # 11)
4. However, the defendant instead filed for an extension of time on June 22, 2005 that the court granted on June 27, 2005 extending the answer deadline to July 19, 2005. (Exhibit ^B A; docket entry # 15)

5. Then on July 18, 2005 the defendant filed for another extension of time that the court granted on July 20, 2005 extending the answer deadline to August 18, 2005. (Exhibit B; docket entry #19)

6. Today, on August 2³, 2005, ~~about 12~~⁵ days after the answer deadline, excluding the date thereof, the defendant has failed to ~~serve~~ answer or otherwise defend as to plaintiff's complaint, or serve a copy of any answer or any defense which he might have had upon plaintiff.

7. The defendant is not in the military service and is not an infant or incompetent.

Wherefore, plaintiff respectfully requests that this honorable court enter default against the defendant for failing to answer or otherwise defend.

under penalty of perjury that
I hereby declare the foregoing is true and correct.

8/2³/05

Ryan Herwin

- 04/06/2005 2 ORDER granting [1-1] motion to Proceed in Forma Pauperis, ptf shall authorize payment of init. filing fee of \$13.75 plus subsequent monthly payments by returning to Court 1 of 2 attached copies of Notice with the Auth. Section signed, or shall in dictate intent to withdraw action by returning Notice with intent to withdraw action section signed, Parties have 10 days to file Appeal to District Judge. (signed by Magistrate Judge Susan P. Baxter on 4/5/05) CM all parties of record. (nk) (Entered: 04/06/2005)
- 04/06/2005 3 COMPLAINT (nk) (Entered: 04/06/2005)
- 04/06/2005 4 ORDER directing service as by U.S. Marshal as stated., Plaintiff provide the U.S. Marshal a separate "Process Receipt and Return" form for each defendant as more fully stated in Order. That Plaintiff shall serve upon each defendant a copy of each pleading submitted to the Court for consideration as more fully stated in order, FURTHER ORDERED that plaintiff shall immediately advise the court of any change in address as more fully stated in Order, Parties have 10 days to file Appeal to District Judge. (signed by Magistrate Judge Susan P. Baxter on 4/5/05) CM all parties of record. (nk) (Entered: 04/06/2005)
- 04/06/2005 Mailed service copies to U.S. Marshal Service in Pittsburgh (nk) (Entered: 04/06/2005)
- 04/11/2005 5 AUTHORIZATION by RYAN KERWIN permitting withdraw of prison account funds to pay filing fee. (nk) (Entered: 04/11/2005)
- 04/26/2005 6 STATEMENT OF UNDISPUTED MATERIAL FACTS by RYAN KERWIN (nk) (Entered: 04/26/2005)
- 04/26/2005 7 MOTION by RYAN KERWIN for Summary Judgment with Proposed Order. (nk) (Entered: 04/26/2005)
- 04/28/2005 8 AFFIDAVIT by RYAN KERWIN re: Serve (nk) (Entered: 04/28/2005)
- 05/03/2005 9 ORDER dismissing [7-1] motion for Summary Judgment; Such a motion is premature as Defendant has not been served with the complaint Parties have 10 days to file Appeal to District Judge. (signed by Magistrate Judge Susan P. Baxter on 5/3/05) CM all parties of record. (nk) (Entered: 05/04/2005)
- 05/10/2005 10 NOTICE OF APPEAL by RYAN KERWIN of Magistrate Decision [9-1] order Parties have 10 days to file Appeal to District Judge. (nk) (Entered: 05/10/2005)
- 05/10/2005 ORDER upon motion denying [10-1] Magistrate appeal (signed by Judge Sean J. McLaughlin on 5/10/05) CM all parties of record. (nk) (Entered: 05/10/2005)
- 05/27/2005 11 WAIVER OF SERVICE Returned Executed as to WM MCCONELL on 4/21/05 Answer due on 6/20/05 for WM MCCONELL (nk) (Entered: 06/01/2005)
- 06/03/2005 12 MOTION by RYAN KERWIN for Summary Judgment with Proposed Order. (nk) (Entered: 06/03/2005)
- 06/03/2005 13 BRIEF by RYAN KERWIN in support of [12-1] motion for Summary Judgment by RYAN KERWIN (nk) (Entered: 06/03/2005)
- 06/07/2005 14 ORDER, that the papers in this action will not be processed any further for failure to comply with our Local Rules and/or practices. The papers are deficient in the following: failure to submit pleadings to the court on paper no larger than 8 1/2 X 11 inches; and that pleadings will not be submitted in this format. Motion for Summary Judgment must be accompanied by a supporting brief, you must serve any court filings on opposing counsel; You have thirty days from today's date in which to comply with this Order. Failure to do so may result in the dismissal of this action for failure to prosecute (signed by Magistrate Judge Susan P. Baxter on 6/7/05) CM all parties of record. (nk) (Entered: 06/08/2005)
- 06/22/2005 15 MOTION by WM MCCONELL to Extend Time to answer with Proposed Order. (mad) (Entered: 06/22/2005)
- 06/27/2005 16 ORDER granting [15] Motion to Extend Time for Answer deadline; Answer due on or before 7/19/05. Signed by Judge Susan Paradise Baxter on 6/27/05. (nk) (Entered: 06/28/2005)
- 06/28/2005 17 MOTION for Summary Judgment by RYAN KERWIN. (nk) (Entered: 06/28/2005)
- 06/28/2005 17 BRIEF in Support re [16] MOTION for Summary Judgment filed by RYAN KERWIN. (nk) (Entered: 06/28/2005)
- 06/28/2005 18 STATEMENT OF MATERIAL FACTS by RYAN KERWIN. (nk) (Entered: 06/28/2005)
- 07/18/2005 19 Second MOTION for Extension of Time to File Answer by WM MCCONELL. (Attachments: # 1 Proposed Order)(Mercii, Kennal) (Entered: 07/18/2005)
- 07/20/2005 20 ORDER granting 19 Motion for Extension of Time to Answer WM MCCONELL answer due 8/18/2005. Text-only entry; no PDF document will issue. This text-only entry constitutes the Court's order or notice on the matter. Signed by Judge Susan Paradise Baxter on 7/20/05. (lrw) (Entered: 07/20/2005)

7/28/2005 11:46 AM of 3

7/28/2005 11:46 AM

In The United States District Court
For The Western District of Pennsylvania

Bryan Kerwin

: case #05-93 ERIE

:

vs.

: Magistrate Judge Susan Baxter

:

St. William McConnell

: District Judge Sean McLaughlin

Certificate of Service

I hereby declare that I mailed a true and correct copy of the attached motion for an entry of default to the defendant's counsel at the following address:

Kemal Alexander Mericki
Office of Attorney General
564 Forbes Ave.
Mann Complex
Pittsburg, B.A. 15219

8/23/05

Bryan Kerwin